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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,533	04/10/2006	Hideyoshi Yamasaki	2006-0476A	8903
52349	7590	12/29/2009		
WENDEROTH, LIND & PONACK LLP.			EXAMINER	
1030 15th Street, N.W.			PATEL, MUNIALKUMAR C	
Suite 400 East			ART UNIT	PAPER NUMBER
Washington, DC 20005-1503			2617	
			MAIL DATE	DELIVERY MODE
			12/29/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,533	<b>Applicant(s)</b> YAMASAKI ET AL.
	<b>Examiner</b> Munjal Patel	<b>Art Unit</b> 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 September 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4-10,12,13,15 and 16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 1-10,13,15 and 16 is/are allowed.  
 6) Claim(s) 12 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Allowable Subject Matter*

1. Claims 1, 4-10, 13, 15-16 are allowed.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kondo** (US PAT 5,293,380) here in after referenced as **Kondo**, as applied to claims, and further in view of **Matsuno** (US PAT 5,613,211) here in after referenced as **Matsuno**.

5. **Regarding claim 12, Kondo** discloses a radio base station monitoring method used in a mobile communication system comprising a mobile station (**Kondo: Fig 1:5**) and a base station operable to return, to the mobile station by means of a TDMA system (**Kondo: Abstract**), a response packet, the response packet being returned by the base

station in response to a packet received from the mobile station, and the response packet being returned within a same time slot used for receiving the response packet, wherein the base station includes:

a radio base station (**Kondo: Fig 1:3**) operable to demodulate an uplink packet signal (**Kondo: Fig 1:3 &7, along with ability to handle TDMA frames describes functional blocks that operable to demodulate an uplink packet**) received from the mobile station (**Kondo: Fig 1:5**) and extract uplink transmission data (**Kondo: Fig 1:3 &7, along with ability to handle TDMA frames as stated in summary describes functional blocks that extract and uplink packet**), and operable to modulate downlink transmission data to be transmitted to the mobile station and generate a downlink packet signal (**Kondo: Column 3 lines [1-8] describes base station communicating with mobile station, which implies modulating downlink transmission data and generate downlink signal**);

a communication control station operable to receive the uplink transmission data from the radio base station (**Kondo: Column 2 lines [60-70] describes base station communicating with control station, which implies communication control station operable to receive the uplink transmission data from radio base station**), generate downlink transmission data corresponding to the uplink transmission data received from the radio base station and transmit the generated downlink transmission data to the radio base station (**Kondo: Column 2 lines [60-70] describes base station communicating with control station, which implies communication control station generating and transmitting downlink data**).

**to radio base station corresponding to uplink data received from base station);**  
and an inter-station transmission path that establishes a wired connection between the radio base station and the communication control station (**Kondo: Fig 1:**

**Communication cables 4-a & 4-b, Column 2 lines [66-68]), and**

wherein the radio base station monitoring method includes:

in the radio base station (**Kondo: Col 6 lines 65 – Col 7 lines 23 discloses base station**), reproducing a clock synchronized with a clock used when the generated downlink transmission data is transmitted from the communication control station (**Kondo: Col 6 lines 65 – Col 7 lines 23 also discloses base station having its own timing pulse generator 56 & signal generator 57 for outputting a clock, which is synchronized with reset pulse**);

in the radio base station, generating monitoring data for notifying a state of the radio base station to the communication control station;

in the radio base station, time division multiplexing the monitoring data into the uplink transmission data with a slot timing that is only allocated to a downlink;

in the radio base station, by means of the reproduced-synchronized clock, transmitting the uplink transmission data and the monitoring data (**Kondo: Fig 8 & Column 7 lines [3-5] describes CPU circuit for supervising the entire base station**) to the communication control station, the uplink transmission data and the monitoring data being transmitted (**Kondo: Fig 8 & Column 7 lines [3-5] describes CPU circuit for supervising the entire base station, hence uplink transmission data and monitoring data being transmitted, Col 3 lines [1-8] discloses TDMA mobile**

**communication system), without any changes, in a TDMA frame format used (Kondo: Column 3 lines [49-52]) for a radio link between the radio base station and the mobile station;**

in the communication control station, processing the uplink transmission data received from the radio base station in the TDMA frame format (**Kondo: Column 7 lines [13-23] & column 2 line [60-70], column 3 lines [1-8] discloses TDMA mobile communication system); and**

in the communication control station, monitoring the state of the radio base station using the monitoring data (**Kondo: Fig 8 & Column 7 lines [3-5] describes CPU circuit for supervising the entire base station**). however, Kondo briefly describes the communication between control station and the base station format as transform signal codes (information) into a transmission format which is agreed upon by the control station and the radio base station beforehand (**Kondo: Col 5 lines [60-65], which examiner interprets as TDMA as well as the whole system is TDMA**), **however**, the examiner maintains that it was well known in the art to provide TDMA frame format as transmission format between base station and control station as taught by Matsuno (**Matsuno: Col 9 lines [7-11] discloses communication between base station and control station is in TDMA, hence uplink and downlink in TDMA**).

1. In a similar field of endeavor **Matsuno** discloses method of establishing inter base-station synchronization and mobile radio communication system using the method. In addition **Matsuno** discloses communication between base station and control station is in TDMA format.

2. **Therefore**, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Kondo** by specifically providing communication between base station and control station is in TDMA format as taught by **Matsuno**, for the purpose of assuring functions of detecting and avoiding interference while communicating (**Matsuno: Col 2 lines [2-10]**).

***Response to Arguments***

6. Applicant's arguments filed 09/10/2009 have been fully considered but they are not persuasive.

a. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Page 12 ¶ 5 – page 15 ¶ 4 disclose argument about amended claim 1 that applicant argues as similar to claim 12, however claim 12 as presented is previously presented, hence previous rejection is maintained, however if Applicant amends the claim 12 with similar limitations as to claim 1, it will overcome current rejection) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Munjal Patel whose telephone number is (571)270-5541. The examiner can normally be reached on Monday - Friday 9:00 AM - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571-272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Munjal Patel  
Examiner  
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